court in the principal case, the Texas decisions on the award of damages for mental pain, are only reconcilable, if at all, on the ground of distinction between proximity and remoteness of cause. Although the supreme court of Texas has not expressly recognized that a conflict exists in its decisions, from the following cases no ground for reconciliation appears: Supporting principal case, *Tel. Co.* v. *Richardson*, 79 Tex. 649, 15 S. W. 689; *Tel. Co.* v. *Kendzora*,—Tex. Civ. App.—,26 S. W. Rep. 245. Contra, *Tel Co.* v. *Cooper*, 71 Tex. 507, 9 S. W. Rep. 598, 1 L. R. A. 728, 10 Am. St. Rep. 772; *Rowell* v. *Tel. Co.*, 75 Tex. 26, 12 S. W. Rep. 534.

TRIAL—COERCION OF JURY BY FAILURE TO FURNISH OPPORTUNITY TO SLEEP.—Defendant was convicted of murder. After the submission of the case to the jury, the jurors were kept together for 89 hours, without beds, cots, or other usual facilities for obtaining sleep. They were given food, fire, and reasonable opportunity for exercise. Five jurors, who until the last had voted for acquittal, subsequently testified that the verdict was deliberate and voluntary, and not the result of fatigue or exhaustion. *Held*, that the verdict should not be disturbed. *Russell* v. *State* (1902), — Neb. —, 92 N. W. Rep. 751.

Said the court: "The length of time a jury shall be kept together in consultation is a matter over which the trial court has a large discretionary power; and according to the ancient authorities, the privations which the jury in this case were compelled to endure, would not tell against their verdict. It was the practice in England, even in the time of Blackstone, to keep the jury out without meat, drink, fire, or light, and to compel them to follow the judge's cart to the next assize if they did not come to an agreement by the end of the term. PROFFATT JURY TRIAL, § 475; THOMP. & M. JURIES, § 310; 3 BL. COMM, (Hammond's Ed.) 496. But this practice has been long obsolete. In every civilized country jurors are now furnished the ordinary accommodations and comforts of life, and it has, we believe, become a fixed principle of general jurisprudence that a verdict cannot stand which is the result of any species of coercion. WHART. PL. & PRAC. § 731; *Com.* v. *Purchase*, 2 Pick. 521, 13 Am. Dec. 452; *People* v. *Olcott*, 2 Johns. Cas. 301, 1 Am. Dec. 168; *People* v. *Goodwin*, 18 Johns. 187, 9 Am. Dec. 203. The doctrine of compelling a jury to agree by the pains of hunger and fatigue was denounced by Chancellor Kent in *People* v. *Olcott* as a monstrous doctrine, and 'altogether repugnant to a sense of humanity and justice.' And so it was. It had its origin and vogue in rude times, and among a rude people, but, as manners and sentiments improved, it fell into disuse and no vestige of it now remains. There is now in substance, as well as in form, a trial by jury. The verdict must, as was said by Chief Justice Parker in *Com.* v. *Purchase*, be the result of a real, and not a formal, consensus of opinion. It must represent intellectual conviction, not mere lack of physical endurance. In this case, had nothing appeared but the fact that the jury had been kept together for 89 hours without reasonable opportunity to sleep, we should be very much inclined to think that the agreement was the result of coercion. But more does appear. Five jurors called by defendant to destroy the verdict gave testimony, which, we think, fully sustains it. According to the testimony of these jurors,—and among them were the men who had voted to the last for acquittal,—the agreement was a deliberate and voluntary one, and was not brought about by fatigue or exhaustion. It seems that the men who composed the jury were possessed of a large measure of pluck and endurance, and that those who had been voting for acquittal stood resolutely by their opinions until convinced that they were wrong. This being so, defendant has no reason to complain."